

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**BECKLEY DIVISION**

CHRIS UMBERGER,

Plaintiff,

v.

CIVIL ACTION NO. 5:09-cv-00607

CORRECTION OFFICER TAYLOR, et al.,

Defendants.

**JUDGMENT ORDER**

On this day, the above-styled matter came before the Court for consideration of the Proposed Findings and Recommendation of United States Magistrate Judge R. Clarke VanDervort and this Court's Memorandum Opinion and Order (Document No. XX).<sup>1</sup> On March 1, 2010, Magistrate Judge VanDervort submitted his Proposed Findings and Recommendation (Document No. 6) wherein it was recommended that this Court dismiss the Petitioner's case without prejudice for failure to prosecute. On April 20, 2010, upon review of the entire record herein, this Court adopted and incorporated the findings of the Magistrate Judge as contained in the Proposed Findings and Recommendation and ordered Petitioner to show good cause for the retention of this action on the Court's docket, within thirty (30) days from the entry of the Memorandum Opinion and Order. The

---


<sup>1</sup> By *Standing Order* (Document No. 2) entered on June 3, 2009, this action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636.

Court instructed that in the absence of such a showing, pursuant to Rule 41.1 of the Local Rules, this case would be dismissed without prejudice and removed from the Court's docket.

The deadline on which Petitioner was to make the requisite showing has passed and the Court finds that Petitioner has taken no action. Thus, pursuant to Rule 41.1 of the Local Rules, this Court does hereby **ORDER** that this case is dismissed without prejudice.

The Court **DIRECTS** the Clerk to remove this case from the Court's docket and to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: June 1, 2010

  
IRENE C. BERGER, JUDGE  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA